

Rachel's Environment & Health News

#257 - International Waste Trade -- Part 2; The Struggle To Ban The Waste Trade

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By December, 1989, George Kouros, a Chicago businessman, hoped to have 15 to 20 ships bound for Brazil, Chile, and maybe an African country or two, each carrying thousands of tons of garbage from the East coast of the U.S.

Although he had no experience in the waste business, Mr. Kouros knew an opportunity when he saw one, and he figured he'd take in \$150 million in revenues his first year, so he spent 1989 lining up ships and waste contracts. But by the time he got all his ducks in order, he found that much of the world had closed its doors to waste traders.[1]

After roughly five years of skyrocketing growth in the international trade in wastes, over 80 countries slammed their doors shut on the waste traders in 1989. As we will see below, President George Bush and a few of his friends in Congress are now doing their best to crowbar those doors back open, but for now many remain shut.

Background

In 1989, 68 less-industrialized countries from Africa, the Caribbean, and the Pacific (together known as the ACP countries) joined with officials from the European Economic Community (EEC) in a treaty prohibiting the international trade in wastes.[2] The agreement, known as the Lom, IV Convention, bans all shipment of hazardous or radioactive wastes from EEC countries to ACP countries. In addition, the ACP countries agreed not to import any wastes from non-EEC countries.

The Lom, Convention is the first international treaty to ban the trade in radioactive wastes, and the first commitment by EEC countries to ban waste exports.

Another key event of 1989 was the signing of the Basel Convention on hazardous waste by representatives of 23 nations on March 22.3 The Basel Convention definitely did not ban the international shipment of waste; instead it merely required that waste exporters must receive written consent from the receiving country. Officials from many Latin American, Asian, Pacific and Middle Eastern nations refused to sign the Basel Convention because they said it merely legalized and legitimized the international trade in wastes, instead of banning such trade. Many countries insisted on nothing less than a total ban on waste imports and exports. "Industrialized countries had the power to stop waste exports to the Third World; instead they opted to institutionalize them," says Jim Puckett, Greenpeace's European waste trade coordinator.

Most EEC countries, and the U.S. already had laws on the books requiring waste exporters to receive permission from the recipient country, so Basel did not represent much that was new. Basel did, however, contain a strict, broad, and comprehensive definition of what is a hazardous waste. Third-world countries and environmental groups argued that the Basel Convention did little more than legalize and legitimize toxic terrorism, but heavily industrialized nations recognized the Basel waste definition as a threat to business-as-usual.

Africa's Response to Basel

January 29, 1991, African nations reacted to the weak Basel Convention by passing a strong, progressive waste import agreement that promises to close most of the African continent to waste traders.[4] Convened under the auspices of the Organization of African Unity (OAU), which includes every African nation except South Africa and Morocco, the treaty is called the "Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes Within Africa," named for Bamako in Mali, where the OAU delegates met to hammer out the details.

The "Bamako Convention," as it is known, is by far the strongest control measure on wastes ever passed. It contains the following

features:

** Bans the import of hazardous waste, including radioactive waste, and declares such import a "criminal act;"

** Bans the import of hazardous substances that have been banned, canceled or refused registration, or have been voluntarily withdrawn in the country of manufacture for human health or environmental reasons;

** Bans ocean dumping and ocean incineration as well as seabed and sub-seabed disposal of wastes;

** Imposes strict, unlimited, joint and several liability on hazardous waste generators; this means that a waste generator retains responsibility and legal liability for a generated waste. Anyone hurt by the waste need not prove that the generator of the waste was negligent. If several waste generators mix their wastes together (as in a dump), each one is individually liable for all damages caused by the whole mess.

** Commits African nations to "strive to adopt and implement the preventive, precautionary approach to pollution problems which entails, [among other things,] preventing the release of substances which may cause harm to humans or the environment without waiting for scientific proof regarding such harm. The Parties shall co-operate with each other in taking the appropriate measures to implement the precautionary principle to pollution prevention through the application of clean production methods, rather than the pursuit of a permissible emissions approach based on assimilative capacity assumptions."

This last provision needs an explanation because it is such a simple description of a path-breaking new approach to chemical regulation. The Precautionary Principle assumes chemicals are dangerous until proven safe. Present U.S. policy has it the other way around, which guarantees that we will have massive damage and millions of victims poisoned before chemicals are brought under control or are banned. The Bamako Convention is the first legal document to embody the Precautionary Principle, setting the stage for others to do the same. It foretells a revolution in the control of toxics.

The U.S. Response to Basel

Meanwhile at the other end of the spectrum from Bamako, President George Bush is promoting legislation that will cut the heart out of even the bland and tepid Basel Convention. The one thing that Basel did right was include a comprehensive definition of hazardous substances. But Basel contains a provision that says when the convention is finally ratified, it will not overrule any waste-trade agreements then in existence, even if they are weaker than the Basel provisions.

January 31, 1991 the OECD (Organization for Economic Cooperation and Development--an organization of 19 highly-developed countries, including the U.S.) adopted "Decision-Recommendation of the Council on the Reduction of Trans-frontier Movements of Wastes." The OECD Decision classifies wastes into three categories--red, amber, and green. Green-class and amber-class wastes will be regulated less strictly than the Basel convention requires, or will be entirely exempt from all regulation. The OECD Decision is clearly intended to undercut the Basel Convention.

The Bush Administration is seeking to turn the OECD Decision into reality. Bush has proposed weak, dangerous legislation in the U.S. Congress (H.R. 2398 and Senate bill 1082).

Competing legislation, introduced by Representative Edolphus ("Ed") Towns--H.R. 2580--would simply ban U.S. export (and import) of all dangerous wastes.[5] This bill deserves strong support.

--Peter Montague

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[1] Bill Lambrecht, "Nations Think Twice on Trading in Trash," ST. LOUIS POST-DISPATCH December 31, 1989, pg. 1A.

[2] The Lom, IV Convention is described in Jim Vallette and Heather Spalding, editors, THE INTERNATIONAL TRADE IN WASTES; A GREENPEACE INVENTORY. Fifth Edition. (Washington, DC: 1990), pgs. 11-12. This 380- page, fully-indexed fifth edition of the INVENTORY is available in English, French, German or Spanish from Greenpeace, 1436 U St., NW, Washington, DC 20009. A steal at \$20.

[3] United Nations Environment Programme, BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL FINAL ACT (Nairobi, Kenya: United Nations Environment Programme, 1989). Available for costs of photocopying (\$10.00) from: Waste Trade Campaign, Greenpeace Action, 1436 U St., NW, Washington, DC 20009.

[4] Organization of African Unity, BAMAKO CONVENTION ON THE BAN OF THE IMPORT INTO AFRICA AND THE CONTROL OF TRANSBOUNDARY MOVEMENT AND MANAGEMENT OF HAZARDOUS WASTES WITHIN AFRICA (Addis Ababa, Ethiopia: Organization of African Unity, 1991). Available for costs of photocopying (\$5.00) from Greenpeace at the address given above.

[5] All pending U.S. legislation is described in Greenpeace Waste Trade Project, "Waste Trade Briefing for Co-Sponsors of The Waste Export and Import Prohibition Act [H.R. 2580]." Available for \$2.00 from Ann Leonard, Greenpeace, at the address above.

Descriptor terms: international waste trade; george kouros; africa; caribbean; pacific; european economic community; lome iv convention; radioactive waste; hazardous waste; basel convention; bans; imports; exports; developing countries; industrialized countries; organization of african unity; bamako convention; hazardous materials; ocean dumping; ocean incineration; waste treatment technologies; waste disposal technologies; precautionary principle; oecd; greenpeace;